IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10869 of 2004

Between:

N. Vidyavatamma, w/o Late N. Vijaya Mohana Reddy,
R/o Panchalingala village, Kurnool Mandal & District.

..... PETITIONER

AND

1 The Assistant Commissioner, Endowments Department, Kurnool.
2 The Eswara Veera Badhra and Anjaneya Swamy Temple,
Panchalingala village, rep. by its Executive Officer/Manager,
Group III Temples, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent authorities in holding the public auction scheduled to be held on 2-7-2004 or subsequent date for lease hold rights of land extent Ac. 24.66 gts (dry) , Sy.No. 2, situated in Panchalingala village, Kurnool Mandal & District as arbitrary, illegal and unjust,

Counsel for the Petitioner: MR.K.V.N.BHUPAL

Counsel for the Respondent Nos.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Mr. V. Venugopala Rao

The Court made the following ORDER :

This writ petition is filed by the petitioner to declare the action of the respondent authorities in holding the public auction scheduled to be held on 02.07.2004 or subsequent date for lease hold rights of land in an extent of Ac.24.66 guntas situated in Survey No.2 of Panchalingala village, Kurnool Mandal & District, as illegal and arbitrary.

2. According to the petitioner, her husband was the successful bidder as a tenant for a period of three years i.e., from 2001-2004 in respect of the above said land. During the pendency of the lease period, her husband died and therefore she is continuing as tenant. According to the petitioner, she is entitled to continue in possession by seeking extension of the lease. Accordingly, she made an application, dated 08.06.2004 for extension of leasehold rights in respect of the land in question for another period of three years on enhanced rent of 10% of the lease amount. As the said representation was not properly considered by the second respondent, the petitioner has come up with the present writ petition stating that the public auction proposed is illegal and without jurisdiction.

3. Heard learned counsel for the petitioner and considered the material available on record.

4. As admittedly, the petitioner's husband was a successful bidder for a period of three years, when auction of the lease hold rights were held in the year 2001 and as the period of lease had already expired, it is open to the second respondent to hold public auction of the lease hold rights in accordance with the rules.

5 . Though, the learned counsel for the petitioner contended that the second respondent must obtain the permission from the first respondent before holding

public auction, he was unable to show or place any Rule or provision in the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') showing that the second respondent requires prior permission of the first respondent before conducting public auction especially when the earlier lease term had expired. Though, the learned counsel for the petitioner relied upon Rule 7 of the Rules framed in G.O.Ms.No.379 dated 11.03.2003, the said rule does not contemplate any prior permission for holding public auction. On the other hand, it stipulates some other conditions to dispense with the public auction where the Executive Authority feels it appropriate to dispense with such public auction. He could make appropriate application before the competent authority for his approval. But such approval is not at all referred to or contemplated for the purpose of holding public auction.

6. The learned counsel though claimed that the petitioner is also prepared to pay even 25% of the enhanced rent, it is not in the material papers to show that such an application was made before any of the respondents. Further it is not open to this Court to consider such claim especially when the petitioner is only a successful bidder as a lessee for a period of three years. According to the provisions of this Act unless the said lease period is extended under any statutory provisions or by any orders of the competent authority, the petitioner is not entitled to continue to be in possession and it is open to the respondent authorities to hold the public auction as contemplated in terms of Rule 7 of the Rules framed in G.O.Ms.No.379. The learned counsel also contended that the second respondent is intended to grant lease without conducting public auction for which he is not entitled to do so.

7. In view of the above, which was made clear by this Court, the second respondent is not entitled to grant any lease to an individual through private negotiations and he has to hold public auction as contemplated under the Rules referred to earlier.

8. Under the above circumstances, the respondents are directed to hold public auction of the lease hold rights in respect of Ac.24.66 guntas of land in Survey No.2 of Panchalingala village, Kurnool Mandal, Kurnool District, expeditiously, if not already held.

9. The writ petition is accordingly disposed of with the above directions. No costs.

13.07.2004

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To

1 The Assistant Commissioner, Endowments Department, Kurnool.
2 The Executive Officer/Manager, Eswara Veera Badhra and Anjaneya Swamy Temple, Panchalingala village, Group III Temples, Kurnool.

3 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)

4 Two CD Copies